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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/768,263

01/30/2004

Kenneth Ray Ward

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5953

3490

7590

07/26/2006

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/768,263	Applicant(s) WARD ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 3, 2006 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the two outlets" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites "...said seal comprising integral surfaces on said body member and said conduit." It is uncertain whether the claim requires the seal to be a separate element from the "coupling." Does claim 1 encompass a configuration where the seal is an integral surface of the coupling which is between the conduit and body member?

Claim 1 recites "...said seal comprising integral surfaces..." Claims 2, 4, 8, 10, 13 and 15 recite "...said seal comprises ribs on said conduit." In reading claims 2, 4, 8, 10, 13 and 15, the seal comprise: integral surfaces on said nozzle body member and said conduit; and further comprise ribs on said conduit. It appears that the disclosure teaches a seal that comprises ribs on a conduit which are integral with the conduit.

Claim 7 recites the limitation "the outlet of said adjusting member" in line 4. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

4. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hinchman (2,517,877).

Hinchman discloses an adjustable gas nozzle comprising: a nozzle body member 8; a conduit 7; an adjusting member 25, 26 having a first end 25 with a first restricted orifice (orifice of 29 upstream of 27) and a second end 26; a first passageway 29,33; a coupling 16; a by-pass passageway 18; cooperative surfaces 19, 27; cooperating means 12, 32; a seal 14, 15.

5. Claims 1-4, 6-10, 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ridenour (5,025,990).

Ridenour discloses an adjustable gas nozzle comprising: a nozzle body member 12; a conduit 13; an adjustment member 14; a coupling 13; a by-pass passageway 35; cooperative surfaces 22,25; cooperating means 31, 32; a seal (the mating/contacting

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surfaces on threads 13; see figure 1). The seal comprises ribs (threads) on said conduit 13.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 11, 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Ridenour (5,025,990) in view Murray (3,601,316).

Ridenour discloses the limitations of the claimed invention with the exception of the material of the conduit and ribs being harder than the nozzle body member.

Ridenour discloses the conduit being made of aluminum and the nozzle body member and adjusting member being made of brass. Ridenour further discloses that the aluminum is softer than the brass. Making the conduit harder than the nozzle body member is a mere reversal of materials/parts. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have made the conduit from harder material than the nozzle body, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Response to Arguments***

8. Applicant's arguments filed July 3, 2006 have been fully considered but they are not persuasive.

Applicant argues that claim 1 now recites that flow through the by-pas passageway does not flow through the first passageway. In Hinchman, whatever fluid that may be in by-pass passageway 18 does not flow through the first passageway 29,33. In Hinchman, fluid flows from bore 11 through bore 33 through bore 29 through slits 27 and possibly to bore 18. To say that the fluid in bore 18 flows through bore 29 would be asserting that the fluid flows in reverse.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'C. Kim', with a long horizontal flourish extending to the right.

Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK